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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE

STATE OF CALIFORNIA

**Order Instituting Rulemaking to Adopt
Biomethane Standards and Requirements,
Pipeline Open Access Rules, and Related
Enforcement Provisions.**

Rulemaking 13-02-008

(Filed February 13, 2013)

**INDICATED SHIPPERS AND THE CALIFORNIA MANUFACTURERS & TECHNOLOGY
ASSOCIATION COMMENTS ON PROPOSED DECISION IMPLEMENTING SENATE
BILL 1440 BIOMETHANE PROCUREMENT PROGRAM**

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The Commission should correct the following legal, factual, and technical errors in the

Proposed Decision:

- The Proposed Decision incorrectly describes the Indicated Shippers' position on allocating above-market core procurement costs to noncore customers, which the Indicated Shippers oppose.
- It is poor policy and contrary to the directive of Senate Bill 1440 to implement "cost-effective" targets to require noncore customers to cover costs from a core procurement program. If the Commission wishes to achieve increased and sustainable production of biomethane, it should implement other strategies to encourage private dollars, not ratepayer dollars.

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The Indicated Shippers¹ and the California Manufacturers & Technology Association (CMTA)² submit these comments pursuant to the revised schedule set in Administrative Law Judge Bemesderfer's email ruling dated January 23, 2022, and Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission) on the proposed *Decision Implementing Senate Bill 1440 Biomethane Procurement Program* (Proposed Decision).

I. INTRODUCTION

The Proposed Decision errs in fact by mischaracterizing the Indicated Shippers' position (and, by implication, CMTA's joint position) on the out-of-scope proposal to distribute above-market biomethane procurement costs to noncore customers. Second, distribution of above-

¹ The Indicated Shippers represent the natural gas non-core customer interests of the following companies in this proceeding: Aera Energy LLC, California Resources Corporation, Chevron U.S.A. Inc., ConocoPhillips, PBF Holding Company, Phillips 66 Company, and Tesoro Refining & Marketing Company LLC.

² CMTA represents the interests of 25,000 large and small manufacturers in California with 1.2 million employees, about 8% of total state employment and about 11% of gross state product. Manufacturing creates the most wealth of any sector – for every \$1 invested in manufacturing, another \$1.35 is added to the economy, and every one manufacturing job supports an additional 2.5 jobs in the local region. Since 1918, CMTA has supported state laws and regulations to maintain a competitive business climate to encourage manufacturing investment and job growth.

market costs from a core procurement program plainly violates cost-causation principles of ratemaking, has no statutory context, and burdens noncore customers who face their own steep rate increases.

II. COMMENTS

A. The Proposed Decision Incorrectly Describes the Indicated Shippers' Position on Allocating Above-Market Core Procurement Costs to Noncore Customers

The Proposed Decision states on page 25 that: “We agree with TURN, Indicated Shippers, and the Joint Utilities that the CPUC should consider distributing above-market biomethane procurement costs to noncore customers ‘by either including the costs in the gas public purpose program or in a new nonbypassable charge that all noncore and CTA customers must pay’ or by some other means.”³ However, the Indicated Shippers took the opposite position in comments. In comments, the Indicated Shippers, jointly with CMTA, expressed surprise at the inappropriate cost allocation proposal in a *quasi-legislative* rulemaking.⁴ In addition, the Indicated Shippers and CMTA explained that it is neither fair nor reasonable to require noncore customers to pay for any core biomethane procurement costs.⁵ It is contrary to cost causation ratemaking and further burdens noncore customers, who are facing their own material utility costs increases. The Commission should correct the record in accurately describing the Indicated Shippers’ (and CMTA’s) position in the final decision.

³ Proposed Decision at 25 (quoting TURN Opening comments at 11).

⁴ *Reply Comments of the California Manufacturers & Technology Association and the Indicated Shippers on the Phase 4A Staff Proposal for a Biomethane Procurement Program* (Joint CMTA/IS Reply Comments), July 16, 2021 at 2.

⁵ *Id.* at 7.

B. It is Poor Policy and Contrary to Senate Bill 1440 to Require Noncore Customers to Shoulder Core Customer Procurement Costs; The Commission Should Implement Strategies to Increase Biomethane Production Other Than Using Ratepayer Dollars

Senate Bill 1440 requires a determination that the biomethane procurement program be “adopted in a cost-effective manner.”⁶ If a non-participating customer class must subsidize the cost of the procurement program, it plainly fails Senate Bill 1440’s cost-effective requirement.

The Proposed Decision’s Ordering Paragraph 28 states: “The Commission will open a ratesetting proceeding no later than January 1, 2023, to consider distributing above market biomethane procurement costs and nonbypassable charges to noncore customers.”⁷ Notably, the Staff Proposal does not recommend such action. In referencing the Staff Proposal,⁸ the Proposed Decision notes:

The Staff Proposal does not propose allocation of gas IOU biomethane procurement costs among noncore customers, **noting that the CPUC cannot direct procurement decisions by entities that supply gas to noncore customers.** However, it adds that “[i]f there is a method within existing rules and regulations in which the gas IOUs can attribute a portion of their biomethane procurement costs to noncore customers, **the burden is on the gas IOUs to provide proof and rationale for charging those noncore customers a higher rate.**”⁹

The Staff Proposal correctly recognizes that the Commission does not have the factual or legal support to place core procurement costs on noncore customers. The practice violates Public Utilities Code section 451, which requires that all charges for service provided by a public utility

⁶ Proposed Decision at 2.

⁷ Id., Ordering Paragraph 28 at 52.

⁸ *Administrative Law Judge’s Ruling Directing Parties to File Comments on Phase 4A Staff Proposal and Related Questions*, Attachment 1: R.13-02-008 Phase 4A Staff Proposal (Draft) (referred to as the Staff Proposal).

⁹ Proposed Decision at 8 (citing to the Staff Proposal at 51).

be just and reasonable.¹⁰ No statutory directive exists for the Commission to justify such a determination. Noncore customers face their own steeply rising costs, and if the Commission intends to fulfill Senate Bill 1440's goals of increasing the sustainable production and use of natural gas, it should consider other low-hanging fruit. For example, interconnection fees and the general maintenance of the California gas grid would significantly benefit biomethane production. If the Commission wishes to truly encourage biomethane production, it should do so by making it easier for the private sector to invest dollars into that production, instead of using ratepayer dollars.

III. CONCLUSION

The Indicated Shippers and CMTA appreciate the opportunity to submit these comments and urge the adoption of the modifications contained in Appendix A.

Respectfully submitted,
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¹⁰ Joint CMTA/IS Reply Comments at 6.

Appendix with Proposed Changes to Findings of Fact and Conclusions of Law

Proposed additions are represented by underline and italics. Proposed deletions are represented by strikethrough.

Body Text

We agree with TURN, ~~Indicated Shippers~~, and the Joint Utilities that the CPUC should consider distributing above-market biomethane procurement costs to noncore customers “by either including the costs in the gas public purpose program or in a new nonbypassable charge that all noncore and CTA customers must pay”¹¹ or by some other means.

¹¹ Citation omitted.